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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,635	10/01/2001	Jean M. Tager	B6087	2272
23636	7590	08/14/2002	EXAMINER	
DANIEL V THOMPSON 12225 GREENVILLE AVENUE SUITE 995 DALLAS, TX 75243			WILLIAMS, MARK A	
		ART UNIT	PAPER NUMBER	
		3676		
DATE MAILED: 08/14/2002				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	<i>BR</i>
	09/682,635	TAGER	
	Examiner Mark A Williams	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a)  The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.	6) <input type="checkbox"/> Other: ____.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “an about 90 degree angle to the locked position” is not understood.

The phrase “said resistance mechanism being indestructible … prior to pivoting movement.” is not understood. It is not clear, in the context of the claim, how the resistance member is indestructible.

In claim 2, “the resistance mechanism is two-state” is not understood.

In claims 12-19, “centrally located” is not fully understood in that the center area of the device has not been established.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Nargulli, US Patent 2,629,466. A lock is provided for overlapping parallel sliding members 11 and 12. As seen in figure 7, a hinge type construction is shown which includes two leaves 32 and 31, one being fixed to one of the sliding members, the other being free to rotate between locked and unlocked positions, as claimed. A resistance mechanism is provided, as seen in figures 4 and 5, including a cam member on leaf 32 engaging follower element 28. The resistance mechanism provides resistance in both rotational directions. The follower is of a deformable, elastic material.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-5, 8-10, and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nardulli in view of Jensen, US Patent 3,625,557. Nardulli

discloses the claimed invention except for explicit teaching of the cam having at least one flatten lobe corresponding to the locked position. Jensen, as seen in figure 3, teaches this concept. It would have been obvious to one skilled in the art to have included in the design of Nurdulli a modification of a flatten lobe, as taught in Jensen, for the purpose of providing added resistance to motion in the locked position.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nardulli in view of Jensen. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the cam located on the fixed leaf and the follower on the pivotal leaf, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nardulli. Nardulli does not explicitly provide that the follower be non-deformed in the locked and unlocked position. It would have been an obvious matter of design choice to make the different portions of the device of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being

within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

7. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nardulli in view of Jensen. Note the above 102(b) and 103(a) rejections.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A Williams whose telephone number is (703) 305-3438.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.

Mark Williams

8/8/02 *MW*

Chuck Y. Man  
Primary Examiner